



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor

Robert L. Morgan
Executive Director

Lowell P. Braxton
Division Director

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July 19, 2002

CERTIFIED RETURN RECEIPT
7099 3400 0016 8895 5187

Carsten Mortensen
Utelite Corporation
P.O. Box 387
Coalville, Utah 84017

Re: 5-Year Review of Reclamation Surety Estimate & Self Bonding and Indemnity Agreement, Utelite Corporation, Utelite Mine, M/043/004, Summit County, Utah

Dear Mr. Mortensen:

Thank you for providing the requested information regarding the five-year review status of your Utelite Mine, located in Summit County, Utah. The last surety estimate for this mine was \$101,800 in 1994 dollars. Upon review of the information furnished by Utelite Corporation, which stated that there had been no changes at the site the last update, we find we only need to escalate the present bond amount for a five-year period.

The new surety amount for the Utelite Mine, escalated to the year 2007 is \$147,900. An updated Reclamation Cost Estimate is enclosed for your use. This estimate was prepared assuming a "worst case" non-landfill scenario. Our records reflect that we conceptually agreed to accept a post-mine landfill proposal for this site. However, because we have no written documentation from Summit County committing to utilize Utelite's mined-out pits as a county landfill, we will bond for a non-landfill scenario at this time. If, and when, it becomes apparent that Summit County will use Utelite's pit(s) as a county landfill, then the operator can request a modification to the reclamation plan and a proportionate bond reduction from the Division.

As part of our standard 5-yr bond escalation and permit review process, the Division also evaluated the existing (1990) "Self Bonding and Indemnity Agreement". Under condition #7 of this document, the agreement states that:

"Not later than March 30 of each year, the operator shall submit to the Division a corporate financial statement and review opinion substantially similar to the

Page 2
Carsten Mortensen
M/043/004
July 19, 2002

December 31, 1988, corporate financial statement initially submitted with this agreement and attached hereto as Exhibit B. Failure to maintain or improve the ratio of total liabilities to net worth or the ratio of current assets to current liabilities, as compared to ratios based on Exhibit B, will be grounds for termination of this Agreement. The operator must provide an alternate reclamation surety in the form and amount satisfactory to the Board prior to 30 days before the date set for the termination of this Agreement."

Exhibit B outlines a ratio of total liabilities to net worth of 0.08 and current assets to current liabilities of 9.61. A review of Utelite Corporation's annual financial statements dated December 1994 through December 2001 reveals that Utelite Corporation has failed to maintain or improve these ratios as provided for in the 1990 Board Agreement (copy of the Ratio Review attached). Because Utelite Corporation has consistently failed to maintain or improve the 1988 ratios, it is our position that Utelite Corporation has breached the "Self Bonding and Indemnity Agreement" entered into with the Division and Board on January 25, 1990.

In accordance with condition #8 of the agreement, the Division believes we are required to *file a formal Notice of Agency with the Board of Oil, Gas & Mining to bring this matter to public hearing*. We anticipate filing a notice so that this matter can be heard at the September 25, 2002, Board hearing. Should you choose to waive this right and agree to post a replacement form of surety with the Division, without a formal public hearing, please notify us accordingly within seven (7) days of your receipt of this letter. In response, we will negotiate a timeframe for filing the replacement surety.

If you have any questions regarding the requirements of this letter, please contact me, or Wayne Hedberg, Minerals Program permit supervisor, at 538-5306 and 538-5286, respectively.

Sincerely,



Mary Ann Wright
Associate Director, Mining

jb
Enclosure: Revised Surety Cost Estimate
Self Bonding and Indemnity Agreement
Utelite Financial Ratio Review
cc: Steve Alder, AAG
Doug Jensen, DOGM
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SURETY ESTIMATE UPDATE

Utelite Corporation

4-Apr-00

Utelite Mine

FILE # M/043/004

Summit County

Prepared by Utah Division of Oil, Gas & Mining

Last Update 7/12/02

DESCRIPTION:

-Previous Reclamation Bond estimate was \$101,800 in 1994-\$

-Reclamation Estimate base amount calculated in 1989-\$

-This update adjusts the surety amount for escalation only.

-Escalation factors through 2002 are actual Means Historical Cost Indices

-Total disturbed area = 48.7 ACRES

CALCULATIONS	YR	ESCAL FACTOR	BOND AMOUNT
$F = P(1 + i)^{**n}$			
	1987	0.0195	\$0.00
	1988	0.0181	\$0.00
	1989	0.0177	\$92,450.00
	1990	0.0077	\$93,161.87
	1991	0.0127	\$94,345.02
	1992	0.0221	\$96,430.05
	1993	0.0261	\$98,946.87
	1994	0.0321	\$102,123.06
	1995	0.0193	\$104,094.04
F = Future Sum	1996	0.0242	\$106,613.12
P = Present Sum	1997	0.0236	\$109,129.18
i = Escalation Factor	1998	0.0502	\$114,607.47
n = number of periods	1999	0.0191	\$116,796.47
	2000	0.0244	\$119,646.31
Three Yr Average = 2.82%	2001	0.0460	\$125,150.04
Used to Project 5 Yrs	2002	0.0282	\$128,679.27
From the Year 2002	2003	0.0282	\$132,308.02
	2004	0.0282	\$136,039.11
	2005	0.0282	\$139,875.41
	2006	0.0282	\$143,819.90
	2007	0.0282	\$147,875.62
Updated Surety Amount Rounded (2007-\$)			\$147,900.00

** Average cost per acre = 3036 (\$/ACRE)

State of Utah
Department of Natural Resources
Division of Oil, Gas and Mining
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Salt Lake City, Utah 84120-1203
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SELF BONDING AND INDEMNITY AGREEMENT

This Self Bonding and Indemnity Agreement ("Agreement") is entered into by and between Utelite Corporation ("Operator") and the State of Utah, Department of Natural Resources, Board and Division of Oil, Gas and Mining ("Board" and "Division", respectively). The Board, Division and the Operator find that:

WHEREAS, pursuant to the Mined Land Reclamation Act, §40-8-1 et seq., Utah Code Annotated (1953, as amended) ("Act") and applicable rules, the Operator has obtained Permit No. M/043/004 from the Division to operate the Utelite Mine ("Mine") in Summit County, Utah, which location is more specifically described in Exhibit A; and,

WHEREAS, the Board, the Division and the Operator agree that, upon permanent cessation of operations, complete reclamation of the Mine pursuant to Permit No. M/043/004, including revisions and amendments (collectively "Permit"), the Act, and applicable rules is essential to protect the land from future harm due to prolonged deterioration; and,

WHEREAS, the Operator and the Division have requested that the Board accept a written contractual agreement as the form of reclamation surety required by the Act; and,

WHEREAS, the Operator has designated CT Corporation System, 170 South Main St., Salt Lake City, Utah, 84111, as its agent for service of process in the State of Utah; and,

WHEREAS, the Operator has been in continuous operation as a business entity for the last twenty-five years; and,

WHEREAS, the post-mining land use for the subject property may or may not include a county land fill; and,

WHEREAS, the Operator has submitted a December 31, 1988 corporate financial statement (1988 income tax basis), and a review opinion in accordance with standards established by the American Institute of Certified Public Accountants and these financial data include assets and liabilities information which establishes the baseline financial standing of the Operator for future determinations of financial capability to perform reclamation under this Agreement.

NOW, THEREFORE, in return for the authority to mine pursuant to the Act, the applicable rules and the Permit, and in addition to other consideration, the sufficiency and receipt of which is hereby acknowledged, the Operator agrees to be held and bonds to the Board for the sum of \$101,800.00 in United States currency for the timely performance of reclamation responsibilities for the Mine as specified by the Permit, the Act, and the applicable rules. By the submission of this Agreement, the Operator will and truly binds itself, its successors and assigns, jointly and severally, by these presents.

The conditions of the above obligations are:

1. The Operator shall perform all duties and fulfill all requirements applicable to reclamation of the Mine as set forth in the Act, the applicable rules, and the terms of the Permit.

2. The liability under this Agreement is conditioned upon successful reclamation of the permit area as provided in the reclamation plan for the Permit for the period of time and in the manner specified in the Act, the applicable rules, and the terms of the Permit. The liability or responsibility of the Operator hereunder is \$101,800.00, provided that the Board may adjust the amount of liability hereunder as provided in Section 6 hereof.

3. Utelite hereby agrees to indemnify and hold the Board and Division harmless from any claim, demand, liability, costs, charge, or suit brought by a third party as a result of the Operator's failure to abide by the terms and conditions of the Reclamation Plan as set forth in the Permit and from any failure to comply with the terms of this Agreement.

4. Upon successful completion of part or all of the obligations secured hereby, the Operator may petition the Board for a final release of part or all of the obligations under this Agreement. Upon such petition, the Division shall conduct an inspection to ascertain whether duties and obligations of the Operator under the Act, the applicable rules, and the Permit have been fulfilled. If it is determined that such duties and obligations have been fulfilled, the Board shall release the Operator from part or all of its obligations under this Agreement and shall file a notice of such release in the property records of Summit County, Utah.

5. At least every five years or at the request of the Operator, this Agreement shall be reviewed by the Division and the amount of liability adjusted if the Division determines that the cost of future reclamation has materially changed.

6. If at any time the Division is satisfied that the post-mining land use of a portion of the mine will include a landfill operated by and for Summit County, the amount of the reclamation surety will be reduced to reflect the decreased reclamation cost estimate.

7. Not later than March 30 of each year, the Operator shall submit to the Division a corporate financial statement and review opinion substantially similar to the December 31, 1988, corporate financial statement initially submitted with this Agreement and attached hereto as Exhibit B. Failure to maintain or improve the ratio of total liabilities to net worth or the ratio of current assets to current liabilities, as compared to the ratios based on Exhibit B, will be grounds for termination of this Agreement. The Operator must provide an alternate reclamation surety in the form and amount satisfactory to the Board prior to 30 days before the date set for termination of this Agreement.

8. If, after notice and hearing, the Board determines that good cause appears to terminate this Agreement, the Board may designate a termination date therefor. The Operator must then provide an alternate reclamation surety in the form and amount satisfactory to the Board prior to 30 days before the stated date of termination.

9. If the Operator fails, within the time periods set forth in paragraph seven of this Agreement, to provide an alternative reclamation surety satisfactory to the Board, the Division or Board may pursue any available remedies, including, but not limited to, the direction to cease all operations at the Mine and the direction to initiate and complete all reclamation operations at the Mine.

10. This Agreement will be governed and interpreted according to Utah law.

SO AGREED this 25th day of January, 1990.

Date

CARSTEN MORTENSEN, President
Utelite Corporation

2-26-90
Date

Dianne R. Nielson
DIANNE R. NIELSON, Director
Division of Oil, Gas and Mining

2/26/90
Date

Gregory P. Williams
GREGORY P. WILLIAMS, Chairman
Board of Oil, Gas and Mining

APPROVED AS TO FORM:

Barbara W. Roberts
Assistant Attorney General

H. Michael Keller
Attorney for Utelite

Utelite Financial Ratio Review

	<u>12/88</u>	<u>12/94</u>	<u>12/95</u>	<u>12/96</u>	<u>12/97</u>	<u>12/98</u>	<u>12/99</u>	<u>12/00</u>	<u>12/01</u>
CUR ASSETS/CUR LIABILITIES Normal std of 1.2 or greater Board req'd 12/88 maintained	9.61	2.77	2.43	2.16	2.36	3.12	3.02	3.20	3.82
TOTAL LIAB./NET WORTH Normal std of 2.5 or less Board req'd 12/88 maintained	0.08	0.13	0.18	0.65	0.82	0.52	0.39	0.30	1.37
FIXED ASSETS Normal std of \$20 million Board did not require	603,208	1,485,834	1,426,262	2,773,550	2,299,158	2,002,510	1,912,495	1,884,151	1,632,904
TANGIBLE NET WORTH Normal std of \$10 million Board did not require	1,030,746	2,440,981	2,406,078	2,608,347	2,066,071	2,306,260	2,617,496	2,843,417	1,301,853
NET INCOME For information only	66,018	280,836	231,760	330,121	(387,276)	250,532	439,607	538,473	319,078

SLS
04/02/2002